

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Council members

FROM/PHONE: Donald DiPetrillo, Fire Chief/EMC, 797-1213
Prepared by Frank Suriano, Assistant Chief, 797-1843

SUBJECT: Resolution

TITLE OF AGENDA ITEM:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO RENEW THE INTERLOCAL AGREEMENT WITH KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY TO PROVIDE FOR DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES IN THE PINE ISLAND RIDGE AREA; PROVIDING FOR TERMINATION, AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

This resolution authorizes renewal of the original interlocal agreement with Broward County, now provided by Kenneth C. Jenne, II, Sheriff of Broward County (BSO), for having the Town of Davie provide emergency medical and fire protection services for Pine Island Ridge area. This agreement was negotiated for a one (1) year term and shall terminate upon the effective annexation date of September 15th, 2006 when the unincorporated area (Pine Island Ridge community) is officially part of the Town of Davie.

The terms of the agreement include the Town of Davie providing comprehensive emergency medical and fire protection services to Pine Island Ridge. BSO will pay the Town of Davie \$443,756.25 base fee plus revenues for special services during the one (1) year period. The fee would be paid in one (1) payment of \$443,756.25. This agreement is being renewed for one (1) year with a cost increase of 5% over the previous agreement. The delay in renewal was due to the transition from Broward County to BSO and heavy workloads from both parties.

PREVIOUS ACTIONS: Town Council previously approved resolution number R-2003-236 to provide Fire Protection and Emergency Medical Services to the Pine Island Ridge area on September 17, 2003.

CONCURRENCES: n/a

FISCAL IMPACT: The agreement would provide revenues for \$443,756.25 in the fiscal year.

RECOMMENDATION(S): Motion to approve resolution

Attachment(s):

Resolution
Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO RENEW THE INTERLOCAL AGREEMENT WITH KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY TO PROVIDE FOR DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES IN THE PINE ISLAND RIDGE AREA; PROVIDING FOR TERMINATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.01, Florida Statutes, authorizes local governmental units to contract with each other to provide fire protection and other essential services; and

WHEREAS, the Town of Davie and Kenneth C. Jenne, II, Sheriff of Broward County desire to renew the Interlocal Agreement for the Town of Davie to deliver emergency medical and fire protection services within Pine Island Ridge area; and

WHEREAS, the Town of Davie and Kenneth C. Jenne, II, Sheriff of Broward County have determined that it is mutually beneficial and in the best interest of the public to enter into this Interlocal Agreement; and

WHEREAS, the Town of Davie and Kenneth C. Jenne, II, Sheriff of Broward County has proposed an Agreement, a copy of which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The appropriate Town officials are hereby authorized to execute the proposed Agreement between the Town of Davie and Kenneth C. Jenne, II, Sheriff of Broward County for emergency medical and fire protection services, a copy of which is attached hereto as Exhibit "A", on behalf of the Town.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2006.

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2006

EXHIBIT "A"

Interlocal Agreement

Between

KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY

and

TOWN OF DAVIE

Providing for

Delivery of Fire Protection and Emergency Medical Services
by Town of Davie within a Certain Portion
of Unincorporated Broward County known as
PINE ISLAND RIDGE

Exhibit A Geographic Map
Exhibit B HIPAA

Interlocal Agreement

Between

KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY

and

TOWN OF DAVIE

Providing for

**Delivery of Fire Protection and Emergency Medical Services by Town of Davie within a Certain
Portion of Unincorporated Broward County known as
Pine Island Ridge**

This Interlocal Agreement is made by and between: KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY (hereinafter referred to as "BSO"), and the TOWN OF DAVIE, a municipal corporation of the State of Florida (hereinafter referred to as "TOWN").

WHEREAS, certain portions of BSO's unincorporated areas are geographically distant and BSO cannot efficiently provide emergency medical and fire protection services directly to these areas; and

WHEREAS, TOWN has the ability and is willing to provide fire protection and emergency medical services, including Advanced Life Support ("ALS") rescue/transport, to the areas described in Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, BSO agrees to compensate TOWN for the provision of such emergency medical and fire protection services within the areas described in Exhibit "A," and

WHEREAS, BSO and TOWN have determined that it is mutually beneficial and in the best interest of the public to enter into this Interlocal Agreement; NOW, THEREFORE,

IN CONSIDERATION of the mutual covenants, promises, terms and conditions set forth herein, BSO and TOWN do hereby agree as follows:

ARTICLE 1

BACKGROUND, PURPOSE AND INTENT AND DEFINITIONS

- 1.1 The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.
- 1.2 It is the purpose and intent of this Interlocal Agreement for the TOWN to provide fire protection and emergency medical services ("EMS") within the area described in Exhibit "A."
- 1.3 TOWN intends to provide services from the closest available fire station

ARTICLE 2

DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES

- 2.1 TOWN's ALS rescue/transport units and personnel shall provide comprehensive emergency medical services to residents and visitors within the areas described in Exhibit "A."

- 2.2 TOWN possesses and shall maintain throughout the term of this Interlocal Agreement a Class 1 - ALS Rescue Certificate of Public Convenience and Necessity ("CON"), as described in Chapter 3 1/2, Broward County Code of Ordinances and the appropriate State of Florida license enabling TOWN to provide advanced life support services, as well as basic life support services, to patients upon arrival at emergency scenes requiring immediate emergency medical care.
- 2.3 TOWN's fire apparatus and personnel shall provide comprehensive fire protection services inclusive of all fire safety plan review, new construction fire inspections, fire investigation, and fire code official services to the areas described in Exhibit "A."
- 2.4 If TOWN is required to request mutual aid to manage a fire or EMS incident within the referenced area, TOWN shall notify BSO of such request.
- 2.5 TOWN shall provide emergency medical and fire protection services in the same manner and scope as provided to residents of the TOWN.
- 2.6 In the event that any substantial properties within the areas described in Exhibit "A" become annexed by TOWN or any other municipality within the term of this Interlocal Agreement, Exhibit "A" shall be automatically revised to reflect the annexation changes and the exclusion of said substantial properties from Exhibit "A" representing termination of the services provided herein by TOWN to the annexed properties with a corresponding reduction in the consideration payable to the TOWN.
- 2.7 In the event that any property in the service area becomes annexed by TOWN or other municipality, or if additional development occurs within the defined service area which more than nominally impacts the level of service to be provided by TOWN, the parties agree to commence renegotiation of this Interlocal Agreement on an expedited basis.
- 2.8 The TOWN's response times to the Service Area shall be consistent with the TOWN's response times to calls within the geographic boundaries of the TOWN.

ARTICLE 3

TERM OF AGREEMENT

- 3.1 This Agreement shall commence on the date it is executed by the last party to sign, and shall terminate on September 30, 2006 unless otherwise terminated as provided herein.
- 3.2 This Agreement may only be terminated as provided for in this Agreement or otherwise agreed upon in writing by the parties.

ARTICLE 4

TERMINATION

- 4.1 This Interlocal Agreement shall be deemed automatically terminated and of no further force and effect if BSO or TOWN have filed or consented to the filing of a petition for reorganization or bankruptcy or is otherwise adjudicated insolvent.
- 4.2 BSO may immediately terminate this Interlocal Agreement in the event TOWN does not maintain the appropriate Class 1 - ALS rescue CON and state license to provide the services hereunder.
- 4.3 Either party may terminate this Agreement, with or without cause, upon providing the other party with no less than sixty (60) calendar days notice.

- 4.4 In the event that all of the properties within the area described in Exhibit "A" become annexed by TOWN, this Interlocal Agreement shall automatically terminate upon the effective date of the annexation by TOWN of said properties.

ARTICLE 5

DEFAULT

- 5.1 If either party fails to perform or observe any of the material terms and conditions of this Interlocal Agreement, after receipt of written notice of such default from the other party, the party giving notice of default may be entitled, but is not required, terminate the agreement or seek specific performance of this Interlocal Agreement on an expedited basis, as the performance of the material terms and conditions contained herein relate to the health, safety, and welfare of the residents subject to this Interlocal Agreement. The parties acknowledge that money damages or other legally available remedies may be inadequate for the failure to perform, and that the party giving notice is entitled to obtain an order requiring specific performance by the other party. Failure of any party to exercise its rights in the event of any breach by the other party shall not constitute a waiver of such rights. No party shall be deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the waiving party. Such waiver shall be limited to the terms specifically contained therein. This paragraph shall be without prejudice to the rights of any party to seek a legal remedy for any breach of the other party as may be available to it in law or equity.

ARTICLE 6

COMPENSATION

- 6.1 For the period October 1, 2005 through September 15, 2006, BSO shall pay TOWN the amount of \$38,587.50 per month thru August 31st 2006 with a final payment of \$19,293.75 for September 2006, for the unincorporated properties within the area described in Exhibit "A" for the provision of emergency medical and fire protection services rendered by TOWN pursuant to this Interlocal Agreement. It is understood that this final amount is also contingent upon the effective annexation date of September 15th 2006 for that unincorporated area describe in Exhibit A.
- 6.2 TOWN shall retain all revenues generated from emergency medical transports by TOWN within the area identified in Exhibit "A."
- 6.3 TOWN's fire apparatus and personnel shall provide fire protection services to the described area. In the event that the TOWN observes an immediate life safety or fire code issue within the described area, TOWN shall immediately notify BSO's Fire Marshal's Bureau via radio dispatch. The TOWN shall immediately notify BSO's Fire Marshal's Bureau via dispatch of any incidents requiring fire and/or hazardous investigations and shall provide assistance to BSO's Fire Marshal's Bureau during the performance of fire and/or hazardous investigations within the described area.
- 6.4 BSO agrees to provide all fire prevention services, including but not limited to fire code official, fire safety inspections, fire plan review, and fire investigations in the described area and will assess fees in accordance with the County's existing fee schedule which may be amended from time to time. BSO will retain all revenues in return for performing these services.
- 6.5 TOWN agrees to perform public fire safety education in the described area. TOWN agrees to inspect all County fire hydrants at least twice per year (at six month intervals) for serviceability and compliance with ISO standards. Copies of said reports will be sent to the BSO Fire

Marshal's Bureau on an annual basis. BSO agrees to inspect all fire wells at least twice per year (at six month intervals) for serviceability and compliance with ISO standards. Copies of said reports will be sent to the TOWN on an annual basis.

- 6.6 Based on software availability through BSO, TOWN agrees to report its responses to incidents within the unincorporated areas identified in this Interlocal Agreement to BSO on a quarterly basis commencing the first quarter after the effective date of this Interlocal Agreement using a mutually agreed upon format. TOWN agrees to include in its quarterly reports all addresses, incident type, and response times (time dispatched until time of patient contact) where TOWN has responded to an incident. Code One responses will be noted.

ARTICLE 7 LIABILITY

- 7.1 TOWN and BSO shall each be separately liable and responsible for the actions of its officers, agents and employees in the performance of their respective obligations under this Interlocal Agreement.
- 7.2 TOWN and BSO shall each independently defend any action or proceeding brought against their respective agency pursuant to this Interlocal Agreement and shall be separately responsible for all of their respective costs, attorney fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof, including appellate proceedings.
- 7.3 TOWN and BSO agree that no indemnification or hold harmless agreement shall be in effect concerning any claims, demands, damages and causes of action which may be brought against either party pursuant to this Interlocal Agreement.

ARTICLE 8 INSURANCE

- 8.1 Throughout the term of this Agreement and for all applicable statutes of limitations periods, TOWN shall maintain in full force and effect the insurance coverages set forth in this Article.
- 8.2 All insurance policies shall be issued by companies that (a) are authorized to do business in the State of Florida, (b) have agents upon whom service of process may be made in Broward County, Florida, and (c) have a Best's rating of A-VI or better.
- 8.3 All insurance policies shall name and endorse the following as additional insureds: The Broward County Sheriff's Office, BSO, the Sheriff, Broward County, the Board of Commissioners of Broward County and their officers, agents, employees and commission members with a CG026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement to the liability policies.
- 8.4 All insurance policies shall be on an occurrence/aggregate basis and shall be endorsed to provide that (a) TOWN's insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and (b) TOWN's insurance applies separately to each insured against whom claims are made or suit is brought and that the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

TOWN shall carry the following minimum types of insurance and submit insurance information including aggregate limits:

1. Workers' Compensation: TOWN shall carry Workers' Compensation insurance with the statutory limits, which shall include Employers' Liability insurance with a limit of not less than \$500,000 for each disease, and \$500,000 for aggregate disease. Policy(ies) must be endorsed with waiver of subrogation against BSO and Broward County.
 2. Commercial General Liability Insurance. TOWN shall carry Commercial General Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence combined single limit for Bodily Injury and Property Damage. The insurance policy must include coverage that is not more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Offices, and the policy must include coverages for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, personal injury and cross liability. Personal injury coverage shall include coverage that has the Employee and Contractual Exclusions removed.
 3. Professional Liability (Errors and Omissions) Insurance: TOWN shall carry Professional Liability coverage for it and its employees that has a per occurrence limit of not less than Three Million Dollars (\$3,000,000). If the TOWN has coverage in greater amounts or if the nature of the agreement requires additional insurance, then the limits will be increased.
 4. Business Automobile Liability Insurance: TOWN shall carry Business Automobile Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit Bodily Injury Liability and Property Damage. The policy must be no more restrictive than the latest edition of the Business Automobile Liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include owned vehicles and hired and non-owned vehicles.
 5. Umbrella or Excess Liability Insurance. TOWN may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for any of the policies noted above. TOWN agrees to name and endorse the Broward County Sheriff's Office, BSO, the Sheriff, Broward County, the Board of Commissioners of Broward County and their officers, agents, employees and commission members as additional insureds.
- 8.5 TOWN shall provide BSO's Director of Risk Management with a copy of the Certificate of Insurance or endorsements evidencing the types of insurance and coverages required by this Article prior to beginning the performance of work under this Agreement, and, at any time thereafter, upon request by the BSO.
- 8.6 TOWN's insurance policies shall be endorsed to provide BSO with at least sixty (60) days prior written notice of cancellation, non-renewal, restrictions, or reduction in coverages or limits. Notice shall be sent to:

Broward Sheriff's Office
Attn: Director of Risk Management
2601 West Broward Boulevard
Fort Lauderdale, Florida 33312

- 8.7 If TOWN's insurance policy is a claims made policy, then TOWN shall maintain such insurance coverage for a period of five (5) years after the expiration or termination of the Agreement or any extensions or renewals of the Agreement. Applicable coverages may be met by keeping the policies in force, or by obtaining an extension of coverage commonly known as a reporting endorsement or tail coverage.
- 8.8 If any of TOWN's insurance policies includes a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be no more than five (5) times the occurrence limits specified above in this Article.
- 8.9 The provisions of this Article shall survive the expiration or termination of this Agreement.
- 8.10 Payment. If any of the insurance policies required under this Article above lapse during the term of this Agreement or any extension or renewal of the same, TOWN shall not receive payment from BSO until such time that BSO has received satisfactory evidence of reinstated coverage of the types and coverages specified in this Article that is effective as of the lapse date. The Sheriff, in his sole discretion, may terminate the Agreement immediately and no further payments shall be due to TOWN.

ARTICLE 9 MISCELLANEOUS

- 9.1 Joint Preparation: The preparation of this Interlocal Agreement has been a joint effort of the parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 9.2 Merger: This Interlocal Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Interlocal Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith by all parties to this Interlocal Agreement.
- 9.3 Assignment: The respective obligations of the parties set forth herein shall not be assigned, or subcontracted in whole or in part, without the written consent of the other party.
- 9.4 Records and audit: TOWN and BSO shall each maintain their own respective records and documents associated with this Interlocal Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes. Each party shall have the right to audit the books, records, and accounts of the other that are related to this Interlocal Agreement including, but not limited to those relating to, costs, revenues and special assessments. In addition, each party shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Interlocal Agreement. Each party shall preserve and make available, at reasonable times for examination and audit by the other, all financial records, supporting documents, statistical records, and any other documents pertinent to this Interlocal Agreement. If an audit has been initiated and audit findings have not been resolved, the books, records, and accounts shall be retained until resolution of the audit findings. No confidentiality or non-disclosure requirement of either federal or state law shall be violated by either party.

- 9.5 Contract Administrators: The Contract Administrators for this Interlocal Agreement are the BSO director of the Department of Fire Rescue and Emergency Services or designee for BSO, and TOWN's TOWN Manager or designee for TOWN. In the implementation of the terms and conditions of this Interlocal Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the respective Contract Administrators.
- 9.6 Governing Law and Venue: This Interlocal Agreement shall be governed, construed and controlled according to the laws of the State of Florida without regard to its conflict of laws provisions. Any claim, objection or dispute arising out of the terms of this Interlocal Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.
- 9.7 Severability: In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or BSO elects to terminate this Interlocal Agreement. An election to terminate this Interlocal Agreement based upon this provision shall be made within seven (7) calendar days after the court determination becomes final. For the purposes of this section, "final" shall mean the expiration of time within which to file an appeal or the conclusion of any appellate proceeding and the granting of an order. In such an event, TOWN and BSO agree to cooperate fully with the other to effectuate a smooth transition of services.
- 9.8 Notices: Whenever either party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, courier, evidenced by a delivery receipt or by an overnight express delivery service addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice. Notice shall be effective upon delivery.

FOR BSO:

Director of Department of Fire Rescue and Emergency Services
Broward Sheriff's Office
2601 West Broward Boulevard
Fort Lauderdale, Florida 33312

with a copy to:

Department of Legal Affairs
Broward Sheriff's Office
2601 West Broward Boulevard
Fort Lauderdale, Florida 33312

FOR TOWN:

Town Administrator
Town of Davie
6591 Orange Drive
Davie, FL 33314

with a copy to:

Fire Chief
Town of Davie
6901 Orange Drive
Davie, FL 33314

- 9.9 Nondiscrimination: TOWN's and BSO's decisions regarding the delivery of services under this Interlocal Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 1/2), national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

TOWN and BSO shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 1/2) in performing any services pursuant to this Interlocal Agreement.

- 9.10 Third Party Beneficiaries: Neither TOWN nor BSO intend that any person shall have a cause of action against either of them as a third party beneficiary under this Interlocal Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Interlocal Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Interlocal Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Interlocal Agreement.

- 9.11 Performance: TOWN and BSO represent that all persons performing the services required under this Interlocal Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the scope of services. Both parties shall perform their respective duties, obligations, and services under this Interlocal Agreement in a skillful and respectable manner.

- 9.12 Materiality and Waiver of Breach: BSO and TOWN agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Interlocal Agreement and, therefore, is a material term hereof.

Either party's failure to enforce any provision of this Interlocal Agreement shall not be deemed a waiver of such provision or modification of this Interlocal Agreement. A waiver of any breach of a provision of this Interlocal Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Interlocal Agreement.

- 9.13 Compliance with Laws: The parties shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Interlocal Agreement.

- 9.14 Priority of Provisions: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Interlocal Agreement by reference and a term, statement, requirement, or provision of this Interlocal Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Interlocal Agreement shall prevail and be given effect.

- 9.15 Amendments: Except as expressly authorized in this Interlocal Agreement, no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Interlocal Agreement and executed by BSO and TOWN.
- 9.16 Conflicts: Neither party subcontract nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with that party's loyal and conscientious exercise of judgment related to its performance under this Interlocal Agreement.

The parties agree that none of its subcontractors, officers or employees shall, during the term of this Interlocal Agreement, serve as an expert witness against the other in any legal or administrative proceeding related to performance under this Interlocal Agreement in which he or she is not a party, unless compelled by court process. Further, the parties agree that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of the other party or in connection with any such pending or threatened legal or administrative proceeding related to the performance under this Interlocal Agreement. The limitations of this section shall not preclude either party or any other persons from representing themselves in any action or in any administrative or legal proceeding related to the performance under this Interlocal Agreement.

- 9.17 Independent Contractor: TOWN and BSO are independent contractors under this Interlocal Agreement. Services provided by the parties shall be by employees, agents or approved subcontractors of the respective party and subject to supervision by that party. In providing such services, neither TOWN's nor BSO's officers, employees, agents or approved subcontractors shall act as officers, employees, or agents of the other party. This Interlocal Agreement shall not constitute or make the parties a partnership or joint venture. Personnel policy, tax responsibilities, social security, health insurance, employee benefits, travel, per diem policy, purchasing policies and any other similar administrative procedures applicable to services rendered under this Interlocal Agreement shall be those of the respective party.
- 9.18 Termination of Prior Agreement. That certain Interlocal Agreement between the parties for the provision of emergency medical services, as amended by the parties, shall be deemed terminated and of no further force and effect upon the execution of this Interlocal Agreement by both parties.
- 9.19 Multiple Originals: This Interlocal Agreement may be fully executed in five (5) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 10 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

BSO and the TOWN shall be responsible for complying with all federal, state and local laws, rules, regulations, and codes including, but not limited to, the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing regulations. BSO and the TOWN shall comply with the provisions stated in the Business Associates Addendum, which is attached hereto as Exhibit "B."

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INTERLOCAL AGREEMENT BETWEEN KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY AND THE TOWN OF DAVIE PROVIDING FOR DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES BY TOWN OF DAVIE WITHIN A PORTION OF UNINCORPORATED BROWARD COUNTY KNOWN AS "PINE ISLAND RIDGE".

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date(s) set forth below:

BSO

KENNETH C. JENNE, II, AS
SHERIFF OF BROWARD COUNTY

KENNETH C. JENNE, II, SHERIFF

Date: _____

Approved as to form and legal sufficiency
Subject to execution by the parties:

By _____
Department of Legal Affairs

Date: _____

TOWN

ATTEST:

TOWN OF DAVIE

By: _____
Town Clerk

By: _____
Mayor

___ day of _____, 2005.

APPROVED AS TO FORM:

Office of the Town Attorney

INTERLOCAL AGREEMENT BETWEEN KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY AND THE TOWN OF DAVIE PROVIDING FOR DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES BY THE TOWN OF DAVIE WITHIN A PORTION OF UNINCORPORATED BROWARD COUNTY KNOWN AS "PINE ISLAND RIDGE".

GEOGRAPHIC AREAS

Within the unincorporated areas of Broward County known as Pine Island Ridge, south of Interstate 595, west of Pine Island Road, east of Nob Hill Road, and north of Nova Drive.

BUSINESS ASSOCIATE ADDENDUM

Between

KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY

and

TOWN OF DAVIE

Providing for

**Delivery of Automatic Aid Fire Service within the Town of Davie
and Fire Protection and Emergency Medical Services within a
Certain Portion of Unincorporated Broward County known as Pine
Island Ridge**

This BUSINESS ASSOCIATE ADDENDUM references the following Agreement by and between Kenneth C. Jenne, II, Sheriff of Broward County (hereinafter called "BSO") and the Town of Davie, a municipal corporation organized as existing under the laws of the State of Florida (hereinafter each is referred to as "BUSINESS ASSOCIATE").

WHEREAS, the parties entered into two Agreements providing for BUSINESS ASSOCIATE to provide automatic aid coverage to BSO and delivery of fire-rescue services to BSO (hereinafter referred to as "Existing Contracts"); and

WHEREAS, the parties entered into an Agreement providing for BUSINESS ASSOCIATE to provide delivery of fire protection and emergency medical services within a certain portion of unincorporated Broward County known as Pine Island Ridge (hereinafter referred to as "Existing Contract"); and

WHEREAS, BSO and the BUSINESS ASSOCIATE have previously entered into the Agreement referenced above which addresses the operation of certain activities related to the provision of fire and emergency medical services; and

WHEREAS, the operation of such programs is subject to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA); and

WHEREAS, BSO is a hybrid covered entity under HIPAA, and designated the Department of Fire Rescue and Emergency Services (hereinafter referred to as "BSOFR") as a covered component subject to HIPAA; and

WHEREAS, the requirements of HIPAA mandate that certain responsibilities of contractors with access to Protected Health Information as defined under HIPAA must be documented through a written agreement; and

WHEREAS, BSOFR and the BUSINESS ASSOCIATE desire to comply with the requirements of HIPAA and acknowledge respective responsibilities; and

WHEREAS, in conjunction with the Existing Contract, this BUSINESS ASSOCIATE Addendum is made and entered into by and between BSOFR and the BUSINESS ASSOCIATE; NOW, THEREFORE,

The parties enter into this BUSINESS ASSOCIATE Addendum for the consideration set out below, all of which is deemed to be good and sufficient consideration in order to make this BUSINESS ASSOCIATE Addendum a binding legal instrument.

Definitions:

All terms used in this Addendum not otherwise defined shall have the meaning as those terms in 45 CFR § 164 [hereinafter called, the "HIPAA Privacy Rule"].

Obligations and Activities of the Business Associate

BUSINESS ASSOCIATE agrees to not use or disclose Protected Health Information other than as permitted or required by this special agreement or as required by law.

BUSINESS ASSOCIATE agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as permitted or required by this Addendum or as required by law.

BUSINESS ASSOCIATE agrees to mitigate, to the extent possible, any harmful effect that is known to BUSINESS ASSOCIATE of a use or disclosure of Protected Health Information by BUSINESS ASSOCIATE in violation of the requirements of this Addendum.

BUSINESS ASSOCIATE agrees to report to BSOFR any use or disclosure of the Protected Health Information not provided for by this Addendum of which it becomes aware.

BUSINESS ASSOCIATE agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from BSOFR or created or received on behalf of BSOFR by the BUSINESS ASSOCIATE, agrees to the same restrictions and conditions that apply through this Addendum to the BUSINESS ASSOCIATE with respect to such information.

BUSINESS ASSOCIATE agrees to provide access to BSOFR to all Protected Health Information in Designated Record Sets in a timely manner in order to meet the requirements under 45 CFR § 164.524.

BUSINESS ASSOCIATE agrees to make any amendments to Protected Health Information in a Designated Record Set as directed or agreed to by BSOFR pursuant to 45 CFR § 164.526 in a timely manner.

BUSINESS ASSOCIATE agrees to make internal practices, books and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from BSOFR or created or received on behalf of BSOFR available to BSOFR or to the Secretary of Health and Human Services or his designee within five (5) business days for the purposes of determining the BUSINESS ASSOCIATE'S compliance with the Privacy Rule.

BUSINESS ASSOCIATE agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for BSOFR to respond to an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

BUSINESS ASSOCIATE agrees to provide BSOFR, or an individual under procedures approved by BSOFR, information and documentation collected in accordance with the preceding paragraph to respond to an individual requesting an accounting for disclosures as provided under 45 CFR § 164.528.

BUSINESS ASSOCIATE agrees that, to the extent feasible, upon expiration or termination of the Existing Contract for any reason, BUSINESS ASSOCIATE shall return or destroy and retain no copies of all Protected Health Information received from, or created or received by BUSINESS ASSOCIATE on behalf of BSOFR. If return or destruction of such information is not feasible, BUSINESS ASSOCIATE shall continue to limit the use or disclosure of such information as set forth in this Agreement as if the Agreement had not been terminated. This provision should be read in harmony with Section 13.2 of the Existing Contract, entitled "Retention of Records for Audit and Public Records Purposes," so that records are retained for whichever retention period is longer. This provision shall survive the expiration or earlier termination of the Existing Contract(s).

Permitted Uses and Disclosures

Except as otherwise limited in this Addendum, BUSINESS ASSOCIATE may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, BSOFR as specified in the Existing Contract, provided that such use or disclosure would not violate the Privacy Rule if done by BSOFR or the minimum necessary policies and procedures of BSOFR that are communicated to the BUSINESS ASSOCIATE in writing.

Except as otherwise limited in this Addendum, BUSINESS ASSOCIATE may use Protected Health Information for the proper management and administration of the BUSINESS ASSOCIATE or to carry out the legal responsibilities of the BUSINESS ASSOCIATE.

Except as otherwise limited in this Addendum, BUSINESS ASSOCIATE may use Protected Health Information to provide Data Aggregation services to BSOFR as permitted by 42 CFR § 164.504 (e)(2)(i)(B).

BUSINESS ASSOCIATE may use Protected Health Information to report violations of law to appropriate federal and state authorities, consistent with 42 CFR § 164.504 (j)(1).

Obligations of BSOFR

BSOFR shall notify BUSINESS ASSOCIATE of any limitations in its notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect BUSINESS ASSOCIATE'S use of Protected Health Information.

BSOFR shall notify BUSINESS ASSOCIATE of any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, to the extent that such changes may affect BUSINESS ASSOCIATE'S use of Protected Health Information.

BSOFR shall notify BUSINESS ASSOCIATE of any restriction to the use or disclosure of Protected Health Information to which BSOFR has agreed in accordance with 45 CFR § 164.522, to the extent that such changes may affect BUSINESS ASSOCIATE'S use of Protected Health Information.

BSOFR shall not request BUSINESS ASSOCIATE to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by BSOFR.

Term. The term of this Addendum shall be effective as of the date it is executed by each party, and shall terminate when all of the Protected Health Information provided by BSOFR or contractors for BSOFR or created or received by the BUSINESS ASSOCIATE on behalf of BSOFR is destroyed.

Amendment. The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for BSOFR to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1966, Public Law no. 104-191.